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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,635	01/24/2001	Michael J. Cafarella	418268607US	5300
45979	7590	12/13/2007		
PERKINS COIE LLP/MSFT P. O. BOX 1247 SEATTLE, WA 98111-1247			EXAMINER LUU, LE HIEN	
			ART UNIT 2141	PAPER NUMBER
			MAIL DATE 12/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/769,635

**Applicant(s)**

CAFARELLA ET AL.

**Examiner**

Le H. Luu

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17, 20-40 and 55-73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 20-40 and 55-73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. Claims 1-17, 20-40 and 55-73 are presented for examination.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 55 and 57-73 are rejected under 35 U.S.C. § 102(e) as being anticipated by Taylor patent no. 6,922,411.

4. As to claim 55, Taylor teaches the invention substantially as claimed, including a computerized method for providing an interactive telephony session, the method comprising: calling a customer pursuant to an occurrence of a triggering event; executing a software program responsive to a voice input when the customer answers; and responding to a voice input of the customer during the interactive telephony session (Abstract, col. 4 lines 16 – 52; col. 6 lines 1 – col. 8 line 3; Tables 6A-6B in col. 16-17).

5. As to claims 57 and 59, Taylor teaches the triggering event is an HTTP request and software program includes VoiceXML (col. 6 lines 15-32; col. 17, Tables 6A – 6B).

6. As to claim 58, Taylor teaches the triggering event is upon reaching a predetermined time and data (col. 9 line 4 – col. 10 line 35).

7. As to claims 60-61, Taylor teaches the step of responding includes connecting the customer to a third party, and the step of responding includes contacting a third party with information from the interactive telephony session (col. 6 lines 1 – col. 8 line 3).

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-17, 20-40, and 56 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Taylor patent no. 6,922,411, in view of Dermier et al. (Dermier) Patent No. 6,766,007.

10. As to claim 14, Taylor teaches the invention substantially as claimed, including a system of providing a telephony session requested by a third party, the system including:

a gateway for receiving a request from the third party to provide the telephony session (col. 6 lines 15-32);

a telephony server for calling a first customer, accessing a URL providing a VoiceXML application, running the VoiceXML application when the first customer answers, and responding to an interaction with the first customer during the telephony session, wherein the telephony server configurably receives an incoming call from a second customer (Abstract, col. 4 lines 16 – 52; col. 6 lines 1 – col. 8 line 3; Tables 6A-6B in col. 16-17).

However, Taylor does not explicitly teach the request comprises an email.

Dermier teaches initiator of a phone call uses subject object to send call-related information to a called person via text chat or signaling message. Dermier also teaches Multipart Internet Mail Extension (MIME) encoding scheme used in e-mail systems for file attachment can be used to encode the subject object (col. 2 line 40 – col. 4 line 14).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of Taylor and Dermier to provide the telephony session request in an email because it would allow called person to decide whether to take the call or not based on the call-related information in the subject object of the email.

11. As to claim 15, Taylor teaches plurality of telephony servers and an event queue interface for monitoring a status of each of the plurality of telephony servers to determine availability for the telephony session (col. 4 lines 53-67; col. 7 lines 8 – 24; col. 23 lines 11 – 40).

12. As to claims 16-17, Taylor teaches an event scheduler for scheduling the telephony session for a predetermined time; means for prioritizing a plurality of telephony sessions (col. 9 line 4 – col. 10 line 35).

13. As to claims 20-22, Taylor teaches the event queue interface includes a plurality of ~~event queue servers for receiving a plurality of requests from a plurality of third~~ parties to provide a plurality of telephony sessions; wherein the plurality of event queue servers dispatch the plurality of requests to the plurality of telephony servers based on a semi-randomized selection biased toward low load telephony servers; an accounting interface for capturing a status of the telephony session (col. 9 lines 4-43; col. 23 lines 11 - 40).

14. Claims 1-13, 23-40, 56, and 62-73 have similar limitations as claims 14-17, 20-

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22, 55, and 57-61; therefore, they are rejected under the same rationale.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H. Luu whose telephone number is 571-272-3884.

The examiner can normally be reached on 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

16. In the remarks, applicant argued in substance that

(A) Prior art does not teach "the telephone session request comprises an email."

As to point (A), Taylor teaches the invention substantially as claimed; however, Taylor does not explicitly teach the request comprises an email.

Dermier teaches initiator of a phone call uses subject object to send call-related

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information to a called person via text chat or signaling message. Derrmler also teaches Multipart Internet Mail Extension (MIME) encoding scheme used in e-mail systems for file attachment can be used to encode the subject object (col. 2 line 40 – col. 4 line 14).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of Taylor and Derrmler to provide the telephony session request in an email because it would allow called person to decide whether to take the call or not based on the call-related information in the subject object of the email.

17. Applicant's arguments filed on 09/21/07 have been fully considered but they are not deemed to be persuasive.

18. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

~~A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.~~

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H. Luu whose telephone number is 571-272-3884.

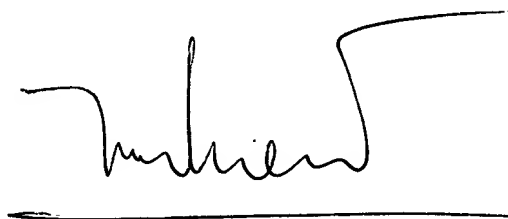


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A handwritten signature in black ink, appearing to read 'Le Hien Luu', is written above a horizontal line.

LE HIEN LUU  
PRIMARY EXAMINER